S.B.CIVIL WRIT PETITION NO.315/2005

Sharvan Kumar
v.
State of Rajasthan & Ors.

Date of Order :: 29th November, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. P.R.Singh, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

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Smt. Kamla died while in service of the respondents on 25.1.1997. During her lifetime the petitioner was adopted by her as son on 2.11.1989. She also nominated the petitioner for withdrawing the provident fund and other dues in the event of her death during service tenure.

The petitioner at the time of death of Smt. Kamla was of only 13 years, therefore, his claim for appointment on compassionate grounds was saved uptil acquiring the age of 18 years as prescribed by Rule 18 (3) of the Rajasthan Compassionate Appointments of Dependents of Deceased Government Servants Rules, 1996 (hereinafter referred to as “the Rules of 1996”). The date of birth of the petitioner is 1.10.1984, hence immediately after achieving majority he submitted an application claiming appointment on compassionate grounds being son of a deceased government servant. The appointment is denied to the petitioner by the respondents by not treating him an adopted son of Late

Smt. Kamla. Being aggrieved by the same this petition for writ is preferred.

It is contended on behalf of the petitioner that he was adopted as son by Smt. Kamla under a deed for adoption dated 2.11.1989 (Anx.2). Smt. Kamla also nominated him for drawing provident fund in the event of her death during service and the entire provident fund was paid to him being nominated by Smt. Kamla. A succession certificate was also issued in his favour by Additional District Judge, Bali on 15.5.2004 with a declaration that the petitioner is entitled for getting all Pension, Provident Fund, Gratuity and State Insurance being the sole successor of Late Smt. Kamla.

In reply to the writ petition no reason is given by the respondents as to why the petitioner was not accepted as an adopted son of Late Smt. Kamla despite the fact that entire amount of Provident Fund and State Insurance was paid to him.

Heard counsel for the parties.

The respondents denied appointment to the petitioner solely on the count that the petitioner failed to prove himself an adopted son of Smt. Kamla. The respondents while reaching at such conclusion have not taken into consideration the adoption deed dated

2.11.1989 and also the fact that the petitioner was nominated by Smt. Kamla much back on 2.1.1983, as a person entitled to draw the provident fund in the event of her death. The respondents have also paid the entire Provident Fund and the amount pertaining to State Insurance to the petitioner by treating him an adopted son and the sole successor of Late Smt. Kamla.

In the circumstances above, I do not find any just and valid reason available with the respondents for not treating the petitioner as an adopted son of Late Smt. Kamla. Accordingly, the denial for appointment on compassionate grounds to the petitioner is declared illegal.

The writ petition, therefore, is allowed. The respondents are directed to employ the petitioner by giving appointment to him on a suitable post being a dependent of deceased government servant in accordance with the Rules of 1996.

No order to costs.

(GOVIND MATHUR),J.

kkm/ps.